

Message Text

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TO AMEMBASSY TOKYO

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E.O. 11652: N/A

TAGS: EIND, ETRD, JA

SUBJECT: US FERROUS SCRAP EXPORTS

1. FOLLOWING IS TEXT OF AUGUST 20, 1973 COOK-KINOSHITA
LETTER ON SUBJECT OF JAPANESE TRADING COMPANY FERROUS SCRAP
ORDERS FOR THIRD COUNTRIES, ORIGINAL OF WHICH GIVEN GOJ
EMBASSY'S KINOSHITA BY COOK ON AUGUST 20:

A. DEAR MR. KINOSHITA: AS YOU ARE AWARE, THE REGULATIONS
GOVERNING EXPORTS OF FERROUS SCRAP FROM THE UNITED
STATES WERE ANNOUNCED BY THE U.S. DEPARTMENT OF COMMERCE
ON JULY 27, 1973, IN EXPORT CONTROL BULLETIN 93(A), A COPY
OF WHICH IS ENCLOSED. SPECIAL RULES ARE PROVIDED IN THE
CASE OF AN EXPORT ORDER ACCEPTED BY A U.S. EXPORTER ON OR
BEFORE JULY 1, 1973, TO EXPORT 500 SHORT TONS OR MORE OF
FERROUS SCRAP TO JAPAN, IF SUCH ORDERS CALL FOR EXPORT
DURING THE MONTH OF AUGUST 1973. IN SUCH A CASE, AN
IMPORT CERTIFICATE (FOR THE FULL QUANTITY OF THE EXPORT
WHICH WOULD BE COVERED BY THE VALIDATED LICENSE) MUST HAVE
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BEEN ISSUED BY THE GOVERNMENT OF JAPAN. HOWEVER, IN

SITUATIONS WHERE THE FERROUS SCRAP WAS ORDERED BY A JAPANESE TRADING COMPANY AND THE COUNTRY OF ULTIMATE DESTINATION WAS FROM THE OUTSET (NOTE: LAST THREE WORDS UNDERSCORED) INTENDED TO BE OTHER THAN JAPAN, NO IMPORT CERTIFICATE IS REQUIRED.

B. IN THOSE SITUATIONS WHERE THE ACCEPTED ORDER OR CONTRACT INITIALLY PROVIDED FOR EXPORT TO A DESTINATION OTHER THAN JAPAN AND SUCH ORDER WAS INITIALLY SO REPORTED BY THE EXPORTER TO THE OFFICE OF EXPORT CONTROL, NO PROBLEM ARISES IN ESTABLISHING THAT THIS ORDER WAS NEVER INTENDED FOR IMPORTATION INTO JAPAN. HOWEVER, WHERE THE ACCEPTED ORDER OR CONTRACT DID NOT SPECIFY ULTIMATE DESTINATION OR LEFT THE DESTINATION TO THE OPTION OF THE SELLER, OR WHERE IT INDICATED JAPAN AS THE COUNTRY OF ULTIMATE DESTINATION, THE EXPORTER MUST ESTABLISH WITH THE SUPPORT OF SATISFACTORY EVIDENCE THAT JAPAN WAS NEVER INTENDED AS THE COUNTRY OF ULTIMATE DESTINATION BEFORE AN EXPORT LICENSE CAN BE ISSUED.

C. IN SUCH CASES, A PROBLEM ARISES AS TO WHAT CONSTITUTES SATISFACTORY EVIDENCE WHICH MAY BE PRESENTED TO THE OFFICE OF EXPORT CONTROL TO DEMONSTRATE THAT THE INTENT WAS FROM THE OUTSET (LAST THREE WORDS UNDERSCORED) TO EXPORT THE FERROUS SCRAP TO AN ULTIMATE DESTINATION OTHER THAN JAPAN. AT PRESENT, IT IS IMPOSSIBLE FOR THE OFFICE OF EXPORT CONTROL TO VERIFY WHICH ORDERS PROPERLY FALL WITHIN THAT CATEGORY. OBVIOUSLY, WE ARE NOT PREPARED TO LICENSE FOR EXPORT AGAINST AN ORDER TO A DESTINATION OTHER THAN JAPAN UNLESS THIS ORDER WAS CLEARLY, AND IN ANY CASE BEFORE JULY 1, 1973, INTENDED FOR SUCH THIRD COUNTRY DESTINATION AT THE TIME IT WAS PLACED. TO DO OTHERWISE WOULD MERELY SHIFT TO OTHER DESTINATIONS THE QUANTITIES OF U.S. FERROUS SCRAP WHICH HAVE BEEN DENIED AN IMPORT CERTIFICATE BY THE JAPANESE GOVERNMENT PURSUANT TO YOUR VOLUNTARY COMMITMENT TO REDUCE IMPORTS OF U.S. FERROUS SCRAP DURING THE BALANCE OF THE CALENDAR YEAR.

D. YOUR GOVERNMENT HAS PREVIOUSLY ADVISED US THAT THE TOTAL AMOUNT OF ORDERS BY JAPANESE TRADING COMPANIES LIMITED OFFICIAL USE

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ACCEPTED ON OR BEFORE JULY 1 FOR EXPORT OF FERROUS SCRAP TO A DESTINATION OTHER THAN JAPAN REPRESENTED APPROXIMATELY 500,000 SHORT TONS. IF YOU WOULD ASSIST US IN OBTAINING FROM THE JAPANESE TRADING COMPANIES INVOLVED, A DETAILED LIST OF ALL THOSE ORDERS FOR WHICH JAPAN WAS NEVER THE INTENDED ULTIMATE DESTINATION, WE WOULD BE IN A BETTER POSITION TO DETERMINE WHICH ORDERS TO LICENSE. OF COURSE, THE JAPANESE TRADING COMPANIES SHOULD ONLY INCLUDE IN SUCH

A LIST THOSE ORDERS WHICH THEY CAN DOCUMENT WERE EARMARKED FOR SHIPMENT TO A THIRD COUNTRY. SUCH DOCUMENTATION, FOR EXAMPLE, MIGHT INVOLVE THE ORDER WHICH THEY RECEIVED FROM A THIRD COUNTRY IMPORTER PRIOR TO PLACING THEIR ORDER IN THE UNITED STATES. WE ARE ASSUMING OF COURSE THAT THE TOTAL AMOUNT OF SUCH ORDERS WILL NOT SUBSTANTIALLY EXCEED

500,000 SHORT TONS. IF THIS PROVES NOT TO BE THE CASE, OUR LICENSING POLICY WITH RESPECT TO SUCH ORDERS WOULD HAVE TO BE RECONSIDERED.

E. IN ORDER TO ANSWER ANY QUESTIONS WHICH THE JAPANESE TRADING COMPANIES MAY HAVE REGARDING THE COMPILATION OF SUCH LIST, WE SUGGEST THAT REPRESENTATIVES OF THOSE COMPANIES BE INVITED TO ATTEND A MEETING AT THE U.S. EMBASSY IN TOKYO.

F. WE WOULD HIGHLY APPRECIATE YOUR COMMUNICATING THE SUBSTANCE OF THIS LETTER TO THE RELEVANT JAPANESE TRADING COMPANIES AS SOON AS POSSIBLE SINCE ANY LICENSING OF THEIR ORDERS FOR EXPORT TO THIRD COUNTRIES CANNOT PROCEED UNTIL SUCH LIST HAS BEEN OBTAINED. YOUR ASSISTANCE IN THIS MATTER IS HIGHLY APPRECIATED. SINCERELY YOURS, GARY M. COOK, ACTING DEPUTY ASSISTANT SECRETARY FOR COMPETITIVE ASSESSMENT AND BUSINESS POLICY.

2. RE EMBASSY MEETING SUGGESTED IN PARA 1(E) ABOVE, FURTHER DETAILS WILL FOLLOW BY SEPTTEL. ROGERS

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